

REMARKS

This responds to the Office Action dated April 5, 2007.

Claims 1 and 11 are amended. Claims 1-18 are now pending in this application.

Objection to the Drawings

The drawings were objected to as failing to show the physical relation of the implantable medical device and the external data logging device to the human body and failing to illustrate the claimed method with a flowchart. Applicant submits new Figs. 4 and 5 herewith to overcome the objections. The specification has been amended accordingly. Figure 1 has been amended to correct a typographical error. No new matter has been added.

Double Patenting Rejection

Claims 1-18 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,628,985.

Applicant does not admit that the claims are obvious in view of U.S. Patent No. 6,628,985. However, a Terminal Disclaimer in compliance with 37 C.F.R. 1.321(b)(iv) is enclosed herewith to obviate these rejections.

§ 102 and § 103 Rejection of the Claims

Claims 1-7 and 11-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Snell et al. (U.S. Patent No. 5,759,199). Claims 8 and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Snell et al. (U.S. Patent No. 5,759,199) in view of Degonde et al. (U.S. Patent No. 4,137,908). Claims 9, 10 and 12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Snell et al. (U.S. Patent No. 5,759,199) in view of Snell (U.S. Patent No. 5,792,204). The rejections are traversed and reconsideration is respectfully requested.

Claim 1 has been amended to recite a system that includes an implantable medical device having a constant current source driven by an oscillator for producing a current signal modulated with encoded data between two electrodes adapted for internal disposition and contact with body fluids, the current signal causing corresponding modulated potential signals detectable at a skin surface. Claim 11 has been amended to recite a method that includes driving a constant current

source with an oscillator to produce a current signal modulated with the encoded data between two internally disposed electrodes in contact with body fluids, the current signal, thereby causing corresponding electrical potentials that can be sensed at a skin surface location. As explained in the specification, generating telemetry signals in this manner requires much less power than conventional wireless telemetry that uses an inductive link between antennas of the implantable device and the external device. Although inductive link telemetry is not discussed in detail in either of the Snell references, that appears to be the type of telemetry that the references refer to. In any event, Applicant finds nothing in the cited references that would suggest to one of ordinary skill in the art the particular system and method for performing telemetry as recited by claims 1 and 11 with their attendant advantages over inductive link telemetry. Withdrawal of the rejections of claims 1 and 11 is respectfully requested.

Applicant further finds no teaching or suggestion of the limitations recited by dependent claims 2-10 and 12-18 when combined with the subject matter discussed above. In particular, claims 8 and 18 recite, in terms of a system or method, the use of the same constant current source for performing a physiological impedance measurement as used to transmit data. Applicant finds no teaching or suggestion in the prior art of record for such a system or method. Withdrawal of the rejections of claims 2-10 and 12-18 is respectfully requested.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (847) 432-7302 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ROBERT J. SWEENEY ET AL.

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(847) 432-7302

Date July 5, 2007

By / J. Kevin Parker /

J. Kevin Parker

Reg. No. 33,024

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 5 day of July 2007.

Name

Signature